

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF SOUTH CAROLINA  
ANDERSON DIVISION

Nathaniel Rouse, #276935,	)	
	)	
Petitioner,	)	Civil Action No. 8:04-22281-TLW-BHH
	)	
vs.	)	<b><u>REPORT OF MAGISTRATE JUDGE</u></b>
	)	
State of South Carolina, and	)	
Henry McMaster, Attorney General	)	
for South Carolina,	)	
	)	
Respondents.	)	
	)	

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The petitioner brought this action seeking relief pursuant to Title 28, United States Code, Section 2254. On November 18, 2004, the respondents filed a motion for summary judgment. By order of this court filed November 29, 2004, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the petitioner was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately. Despite this explanation, the petitioner elected not to respond to the motion.

As the petitioner is proceeding *pro se*, the court filed a second order on March 9, 2005, giving the petitioner an additional twenty days in which to file his response to the motion for summary judgment. The petitioner was specifically advised that if he failed to respond, this action would be dismissed for failure to prosecute. The petitioner elected not to respond.

Based on the foregoing, it appears the petitioner no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed for lack of

prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989), *cert. denied*, 493 U.S. 1084 (1990).

s/Bruce H. Hendricks  
United States Magistrate Judge

April 29, 2005

Greenville, South Carolina